

BLOOMINGTON COMMON COUNCIL JACK HOPKINS SOCIAL SERVICES FUNDING PROGRAM

A Non-Profit's Guide to Bloomington's Living Wage Ordinance Bloomington Municipal Code §2.28

Living Wage Requirement

Beginning in 2008, some not-for-profit agencies receiving Jack Hopkins Funds will be required to begin the phase-in period of their living wage obligation as defined in the City's *Bloomington Municipal Code* §2.28. An agency is subject to the Living Wage Ordinance (LWO), ONLY if ALL THREE of the following are true:

- 1) the agency has at least 15 employees; *and*
- 2) the agency receives \$25,000 or more in assistance from the City in the same calendar year; *and*
- 3) at least \$25,000 of the funds received are for the operation of a social services program, not for physical improvements.

What is the 2009 Living Wage?

If all of these three conditions are met in 2009, then an agency is subject to the living wage phase-in period. For 2009, the living wage is \$11.25 per hour. The Living Wage Ordinance allows up to fifteen percent of the living wage to be in the form of the employer's contribution to the employee's health care, regardless of whether the employee elects to participate in the employer's health plan. Therefore, in 2009, as much as \$1.69 per hour may be credited for health insurance provided by the employer, if the employee is eligible. If so, the employer is required to pay \$9.56/hour.

Phase-In Period

Effective January 1, 2008, non-profits are afforded a living wage phase-in period, which begins with the first year they receive at least a \$25,000 subsidy from the City of Bloomington. A "subsidy" includes funding for the operation of a social services funding program from the Jack Hopkins Social Services Funding Program, the City's Community and Development Block Grant. The definition also includes tax abatements, grants from the Business Investment Incentive Loan Fund (BIILF); a Community Revitalization Enhancement District (CRED) payment. The LWO does not cover subsidies for initiatives unrelated to operating programs, such as construction and equipment. It does not cover grants for physical improvement under CDBG. Nor does it cover grants for equipment, such as refrigerators, computers, loading docks, etc., under Jack Hopkins.

According to the ordinance, a non-profit agency is not obligated to pay the full amount of the living wage in the first two years they received assistance from the City. During this two-year period, the not-for-profit organization must take steps to reduce the gap between its wages and the living wage by fifteen percent in the first year, and by thirty-five percent in the second year.

For example, in 2009, the living wage is \$11.25. If an agency is subject to phase in and currently pays its employees \$10/hour without benefits, during the first year it receives funds, the agency would have to reduce that gap by fifteen percent. The gap between \$10 and \$11.25 is \$1.25. Fifteen percent of \$1.25 is 19 cents, so the agency would be obligated to pay employees working on Hopkins-funded projects \$10.19 in 2009. If this agency receives \$25,000 from the City for the operation of a social services program the following year, it would have to reduce the gap by 35%, but the LWO is probably going to be about \$11.75 by then. The gap between \$10.19 and \$11.75 is \$1.56, and they have to reduce that by 35%, or by 55 cents. Thus, in 2010, they will need to be paying covered employees approximately \$10.74 an hour. (This is just an approximation as we do not know what the living wage will be in 2010). The third and subsequent years in which the agency receives City assistance for the operation of a social services program, the agency is obligated to pay the full living wage, as annually adjusted. Notably, the years need not be subsequent – if an agency receives funding in 2009 and then not again until 2011, it would not have to implement the 35% gap reduction between its current rate of pay and the living wage until 2011.

Importantly, the obligation to pay the living wage only applies to the second grant that triggered the applicability of the ordinance – that put the agency at or over the \$25,000 threshold. Therefore, if “Agency A” received \$10,000 from the City Community and Development Block Grant program in March for the operation of a social services program – say an awareness campaign -- and \$15,000 from the Jack Hopkins Social Services Funding Program for a voucher program, then the obligation to pay a living wage would apply just to staff working on the voucher program funded through Hopkins. “Receipt” of grants is determined by looking at the dates outlined in the *Funding Agreement*. If an agency’s contract for Community Development Block Grant funds runs June 1, 2009-May 31, 2010 and its contract for Hopkins funds runs from August 1, 2009-December 31, 2009, then “Agency A” would be obligated to pay a living wage for the Hopkins-funded voucher program from the beginning of August through the end of December.

What triggers the LWO?

A total of \$25,000 awarded by the City to an agency in one calendar year for the operation of a social services program or programs. For example, if “Agency A” received \$10,000 from the Community Development Block Grant Program and \$15,000 from Jack Hopkins in one calendar year, and both of these grants are for the operation of social service agency programs, “Agency A” would be obligated to pay a living wage once the \$25,000 threshold has been reached. “Agency A’s” obligation to pay the living wage *applies only to the second grant that triggered the applicability of the ordinance* and any other subsidies received thereafter. Whether these two grants are in the same calendar year or not is determined by the date the contract is signed.

How long is the agency required to pay covered employees the living wage? From the date the award is received until the end of the fiscal year of the program. In this context, “program” refers to the City’s program – Jack Hopkins, Community Development Block Grant or other subsidy – and not to the agency’s programs. For the purposes of the Community Development Block Grant, the program year is June 1, the date of receipt, to May 31, the end of the fiscal year of the program. In the past, the City has not formally defined the fiscal year of the Jack Hopkins program, but will begin to do so effective this year. Both the receipt date and the end of the fiscal year will be spelled out in each agency’s *Funding Agreement*.

Are all of the agency's employees covered by the LWO?

No -- only the employees who are performing work operating the program. If a covered employee works ten hours a week on a LWO-funded program and 30 hours a week on other programs, the agency only has to pay that employee the living wage (or a sliding scale version of it as described above) for ten hours a week.

Adjustment for Inflation

At the beginning of each calendar year, the Living Wage will increase by the same percentage increase as the Consumer Price Index for All Urban Consumers, as assessed the previous June 30. Insofar as applicants for Hopkins funding request that Hopkins funding extend beyond the year of application, e.g., from October 1, 2009 - February 29, 2010. Here, the obligation to pay the living wage applies to this entire period; however, as the living wage is adjusted for inflation at the beginning of each year, then the agency would be obligated to pay the adjusted living wage of January 1, 2010 for the months of January and February 2010.

What if a covered employer contracts with another party for the operation of the social service program to which the LWO applies-- Is the subcontractor obligated to pay a living wage?

Yes. If a covered employer contracts with another party for the purpose of operating a social service program to which the LWO applies, then the LWO would apply to the subcontractor's employees operating the program.

What does the recipient agency have to do to comply with the LWO?

Three things: 1) pay the covered employees the applicable living wage; 2) post a notice, available on-line or from the City Legal Department, about the Living Wage Ordinance in a conspicuous location in the workplace and; 3) Complete and return a certification form, also available on-line or from the Legal Department, that says the agency is complying with the LWO.

What if my agency is subject to the LWO, but cannot pay a living wage?

The intent of the living wage ordinance is to help decrease the amount of poverty in the City by guaranteeing that organizations receiving City funds pay their employees a fair rate. However, the LWO provides a "Hardship Waiver" for non-profits when payment of the living wage would cause a demonstrated harm to services and where the City Council finds that such harm outweighs the benefits. All requests for hardship waivers should be submitted to Barbara McKinney, Contract Compliance Officer, in the City's Legal Department. If the request for a waiver is approved by the Mayor, then the Council must vote on the waiver.

What are some exceptions to the LWO?

Not all employees are covered by the LWO. In most cases, part-time and seasonal employees under 18 years of age, students in work-study or internship programs, unpaid volunteers, and trainees undergoing a six-month or less training program are not covered by the LWO. Additionally, those employed through a governmentally funded vocational rehabilitation program or under common construction wage laws are not covered by the LWO. Finally, those exempted under Section 14(c) of the federal *Fair Labor Standards Act* due to his or her disabilities are also not covered under the LWO.



For more information

Call the Council Office at 812.349.3409

Visit the City's Living Wage page: <http://bloomington.in.gov/livingwage/>
[Read the City's Living Wage Ordinance](#)